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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,714	08/24/2005	Andrea Duddington	102792-429(11038P1)	8542
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NORRIS, MCLAUGHLIN & MARCUS			EXAMINER	
875 THIRD AVE			NATHAN, SHYAM	
18TH FLOOR				
NEW YORK, NY 10022			ART UNIT	PAPER NUMBER
			1611	
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			11/25/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/528,714	Applicant(s) DUDDINGTON ET AL.	
	Examiner SHYAM NATHAN	Art Unit 1611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 10, 11, 13-19, 21, 24-28 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 10, 11, 13-19, 21, 24-28 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/22/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-5,10-11,13-19,21,24-28,30 are pending in this Office Action. Claims 6-9,12,20,22-23,29 have been cancelled. This is the first Office Action on the merits of the claims.

Priority

The earliest effective US filing date afforded the instantly claimed invention has been determined to be 10/10/2003, the filing date of PCT/GB03/04419. The ADS should be revised to recite the filing date of PCT/GB03/04419, or a statement of priority reciting the relevant dates of filings should be inserted at the top of page 1 of the specification. .

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-2,4-5,10-15,24-28, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michael (US Patent No. 5,540,864 ; Issued Jul.30,1996).

Instant claim 12,4-5,10-15,24-28 is drawn to a hard surface cleaning concentrate composition comprising:

- a) at least one non-cationic antimicrobial agent;
- b) at least one solvent selected from water soluble organic solvent, water insoluble organic solvent, terpenes, essential oil, and mixtures thereof;
- c) an anionic soap surfactant;
- d) at least one surfactant selected from nonionic surfactant, anionic surfactant excluding the anionic soap of c), and mixtures thereof;
- e) Optionally, one or more alkanolamines;
- f) optionally, one or more conventional constituents selected from dyes, colorants, fragrances and fragrance solubilizers/enhancers, light stabilizers, viscosity modifying agents, pH adjusting agents and pH buffers including organic and inorganic salts, optical brighteners, opacifying agents, hydrotropes, antifoaming agents, enzymes, anti-spotting agents, anti-oxidants, preservatives, and anti-corrosion agents; and
- g) the balance, water

characterized in that the concentrate compositions are mixed with water in dilution of 1 part concentrate composition to 50-200 parts water at 20° C., the resultant

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mixture exhibits a light transmittance loss of at least 30%. Claim 30 is drawn to a process for cleaning a hard surface in which water is dispersed in a weight ratio of concentrate composition: water from 1:01 to 1:1000.

Michael '864 teaches of a detergent composition and a process of cleaning and/or disinfecting a hard surface comprises benzyl alcohol (Abstract and column 7, lines 45-48, Abstract and column 10, lines 60-65), which is the non-ionic microbial agent. The composition, further comprises, pine oil (Abstract and column 7, lines 45-48), d-limonene (Abstract and column 10, line 67, Abstract and column 11, line 13), which is the essential oil mix, and ethanol (Abstract and column 8, lines 15-20), which is the C₁₋₄ alcohol and a water soluble organic solvent. The composition, further comprises the sodium salt of a coconut alkyl ether sulfate, which has 11-15 carbon atoms (coconut soaps) (Abstract and column 4, lines 22-30), and is an alkali metal soap of fatty acid and an anionic soap surfactant. The composition, further comprises, additional anionic and nonionic detergent surfactants (Abstract and column 3, lines 55-60). The composition, further comprises, a beta-alkanolamine (Abstract and column 5, lines 10-15) including monoethanolamine (Abstract and column 2, lines 20-25), because it is found that superior liquid detergent compositions for cleaning shiny surfaces contain zwitterionic detergent surfactants. And lastly, the composition of Michael '864 comprises colorants and inorganic salts. (Abstract and column 8, lines 30-60) and water (Abstract and column 8, lines 15-25) including deionized water (Abstract and column 11-13, ex I-III), to

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balance the composition. The amount of water in the compound would meet the requirement of claim 30.

Because Michael '864 does not immediately envisage the above compounds the instant rejection is made under obviousness. One would be motivated to combine the above compounds in a single composition because benzyl alcohol is a non-ionic microbial agent, pine oil is a solvent that can potentially cut through grease, d-limonene is a highly volatile, low boiling perfume ingredient that provides an olfactory aesthetic benefit to cover any chemical odor that the composition can have (Abstract and column 9, lines 65-67), ethanol, which is a non aqueous-polar solvent and water are typically used for proper balance of the cleaning composition (Abstract and column 8, lines 15-16), coconut soaps, which are used as surfactants or emulsifiers that lower the surface tension of a liquid and alkanolamines such as a beta-alkanolamine and monoethanolamine, which are zwitterionic detergent surfactants that are used for cleaning hard shiny surfaces such as glass (Abstract and column 2, lines 19-25), colorants and inorganic salts for aesthetic enhancement and deionized water for balance to the composition. Further, Michael '864 suggests these compounds can be used in a single composition for the reasons stated above.

Regarding the relative amount and ratios of the antimicrobial agents, anionic soap surfactants and surfactants, essential oils, colorants recited in Applicants' dependent claims; the amount of antimicrobial agents, anionic soap surfactants and surfactants, essential oils, colorants in the composition is clearly a result effective parameter that a person of ordinary skill in the art would routinely optimize. Optimization

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of parameters is a routine practice that would be obvious for a person of ordinary skill in the art to employ. It would have been customary for an artisan of ordinary skill to determine the optimal amount of antimicrobial agents, anionic soap surfactants and surfactants, essential oils, colorants needed to achieve the desired results. Thus, absent some demonstration of unexpected results from the claimed parameters, the optimization of antimicrobial agents, anionic soap surfactants and surfactants, essential oils, colorants would have been obvious at the time of applicant's invention.

A reference is good not only for what it teaches by direct anticipation but also for what one of ordinary skill in the art might reasonably infer from the teachings. (*In re Opprecht* 12 USPQ 2d 1235, 1236 (Fed Cir. 1989); *In re Bode* 193 USPQ 12 (CCPA) 1976). In light of the forgoing discussion, the Examiner concludes that the subject matter defined by the instant claims would have been obvious within the meaning of 35 USC 103(a). From the teachings of the references, it is apparent that one of ordinary skill in the art would have had a reasonable expectation of success in producing the claimed invention. Therefore, the invention as a whole was *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, as evidenced by the references, especially in the absence of evidence to the contrary.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Michael (US Patent No. 5,540,864 ; Issued Jul.30,1996) as evidenced by Dangman, .et al(US patent No. 5,335,373; Issued Aug. 9, 1994), as applied to claims 1-2 above, and further in view of Scepanski (US Patent No. 5,977,183; Issued Nov.2,1999).

Michael ' 864 teaches of a liquid hard surface detergent composition as stated above. But , Michael ' 864 does not teach o-benzyl p-chlorophenol.

Dangman et al. teaches that both o- benzyl-p-chlorophenol and benzyl alcohol, which is taught in Michael '864, as antiseptic/antimicrobial compositions (Abstract and column 26 and 27).

Scepanksi '183 teaches of cleaning compounds with antimicrobial activity that comprise o-benzyl p-chlorophenol.

It would be prima facie obvious for one of ordinary skill in the art to add o-benzyl p-chlorophenol to the composition of Michael '864 because benzyl alcohol which is in the composition of Michael .864 is disclosed as a antiseptic/antimicrobial compound just as o-benzyl p-chlorophenol. Therefore, it would be obvious because o-benzyl p-chlorophenol is a non-cationic antimicrobial agent, which satisfies the limitation in claim 1.

A reference is good not only for what it teaches by direct anticipation but also for what one of ordinary skill in the art might reasonably infer from the teachings. (*In re Opprecht* 12 USPQ 2d 1235, 1236 (Fed Cir. 1989); *In re Bode* 193 USPQ 12 (CCPA) 1976). In light of the forgoing discussion, the Examiner concludes that the subject matter defined by the instant claims would have been obvious within the meaning of 35 USC 103(a). From the teachings of the references, it is apparent that one of ordinary skill in the art would have had a reasonable expectation of success in producing the claimed invention. Therefore, the invention as a whole was *prima facie* obvious to one

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of ordinary skill in the art at the time the invention was made, as evidenced by the references, especially in the absence of evidence to the contrary.

Claims 16-20,21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michael (US Patent No. 5,540,864 ; Issued Jul.30,1996), as applied to claim 1-2 above, and further in view of Bischof et al.(US patent No. 4,666,940; issued May 19,1987), Jan.6, 1976).

Michael ' 864 teaches of a liquid hard surface detergent composition as stated above. But does not disclose the nonionic surfactant as alkylphenol ethoxylate and the anionic surfactant is a sulfate or sulfonate.

Bischof et al. teaches of a cleaning composition that comprises olefinsulfonate , which is anionic sulfonate surfactant and alkylphenol ethoxylate, which is a nonionic surfactant.

It would be prima facie obvious to one of ordinary skill in the art to add the olefinsulfonate and alkylphenol ethoxylate to the composition of Michael '864 because both Michael and Bischof et al. are cleaning/detergent compositions and Michael '864 teaches anionic and nonionic surfactants in his composition. Therefore, one can substitute or add olefinsulfonate and alkylphenol ethoxylate to the composition of Michael '864 as surfactants to lower the surface tension of a liquid composition.

A reference is good not only for what it teaches by direct anticipation but also for what one of ordinary skill in the art might reasonably infer from the teachings. (*In re Opprecht* 12 USPQ 2d 1235, 1236 (Fed Cir. 1989); *In re Bode* 193 USPQ 12 (CCPA)

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1976). In light of the forgoing discussion, the Examiner concludes that the subject matter defined by the instant claims would have been obvious within the meaning of 35 USC 103(a). From the teachings of the references, it is apparent that one of ordinary skill in the art would have had a reasonable expectation of success in producing the claimed invention. Therefore, the invention as a whole was *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, as evidenced by the references, especially in the absence of evidence to the contrary.

Conclusion:

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHYAM NATHAN whose telephone number is (571)270-5753. The examiner can normally be reached on Mon-Thurs 8:30a.m. - 5:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sharmila Landau can be reached on 571-272-0614. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SN

/Andrew D Kosar/
Primary Examiner, Art Unit 1654